

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-1688V

UNPUBLISHED

VICTOR GARCIA,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 16, 2021

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Shoulder  
Injury Related to Vaccine  
Administration (SIRVA); Complex  
Regional Pain Syndrome (CRPS)

*Jerome A. Konkell, Samster, Konkell & Safran, S.C., Milwaukee, WI, for petitioner.*

*Claudia Barnes Gangi, U.S. Department of Justice, Washington, DC, for respondent.*

### **DECISION AWARDING DAMAGES<sup>1</sup>**

On November 1, 2018, Victor Garcia filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that he developed shoulder injuries related to vaccine administration (“SIRVA”) and Complex Regional Pain Syndrome (“CRPS”) as a result of an influenza vaccine received on November 27, 2017. Petition at 3, 5. Petitioner further alleges that the vaccine was administered in the United States, that he experienced symptoms in excess of six months, and that he has not receiving any compensation in the form of an award or settlement, nor has he filed a civil action prior to filing this petition. Petition at 3, 5. The case was assigned to the Special Processing Unit of the Office of Special Masters.

<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On September 24, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for CRPS. On March 15, 2021, Respondent filed a proffer on award of compensation ("Proffer") indicating Petitioner should be awarded \$77,500.00. Proffer at 2. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$77,500.00 in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.



**II. Form of the Award**

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment of \$77,500.00, in the form of a check payable to petitioner. Petitioner agrees.

Respectfully submitted,

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/s/ Claudia B. Gangi  
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